

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BYRON DUFFEY,)	
ID # 02408801,)	
Petitioner,)	
)	
vs.)	No. 3:23-CV-0154-D
)	
THE STATE OF TEXAS,)	
Respondent.)	

ORDER

The court has conducted *de novo* review of the March 1, 2023 findings, conclusions, and recommendation of the United States Magistrate Judge. Petitioner has not filed any objections. Accordingly, the court adopts the findings, conclusions, and recommendation and concludes that this petition should be dismissed without prejudice for failure to exhaust state court remedies.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge’s findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court’s “assessment of the constitutional claims debatable or wrong,” or (2) that reasonable jurists would find “it debatable whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

() petitioner may proceed *in forma pauperis* on appeal.

(X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

April 4, 2023.



SIDNEY A. FITZWATER
SENIOR JUDGE